

EXHIBIT 1

INTRODUCTION

Respondent L. Scott Spahnn & Associates was a registered lobbying firm located in Sacramento. In 2004, Respondent Leslie Scott Spahnn was a registered lobbyist, and the owner of Respondent L. Scott Spahnn & Associates. The lobbying provisions of the Political Reform Act (the “Act”)¹ require registered lobbying firms to file quarterly reports disclosing specified information about their lobbying activities. In this matter, Respondents failed to file three quarterly lobbyist firm reports in paper format and three quarterly lobbyist firm reports electronically during the 2004 calendar year as required by the Act. This matter arose from a referral from an audit conducted by the Franchise Tax Board (“FTB”).

For the purposes of this stipulation, Respondents’ violations are as follows:

- COUNT 1:** Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) in paper format for the quarter ending June 30, 2004, by the August 2, 2004 due date, in violation of Sections 86114 and 86117.
- COUNT 2:** Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) electronically for the quarter ending June 30, 2004, by the August 2, 2004 due date, in violation of Section 84605, subdivision (d).
- COUNT 3:** Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) in paper format for the quarter ending September 30, 2004, by the November 1, 2004 due date, in violation of Sections 86114 and 86117.
- COUNT 4:** Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) electronically for the quarter ending September 30, 2004, by the November 1, 2004 due date, in violation of Section 84605, subdivision (d).
- COUNT 5:** Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) in paper format for the quarter ending December 31, 2004, by the January 31, 2005 due date, in violation of Sections 86114 and 86117.

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 6: Respondents L. Scott Spahnn and Associates and Leslie Scott Spahnn failed to file a Lobbying Firm Report (Form 625) electronically for the quarter ending December 31, 2004, by the January 31, 2005 due date, in violation of Section 84605, subdivision (d).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (b), is to ensure that the activities and finances of lobbyists are disclosed, so that improper influences are not directed at public officials. To that end, the Act requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing decisions of the State Legislature and state administrative agencies, as specified in the lobbying provisions that are contained in Sections 86100 through 86300.

Section 82039 defines a “lobbyist” as an individual who receives \$2,000 or more in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are to communicate directly or through his or her agents with any elective state official, agency official, or legislative official, for the purpose of influencing legislative or administrative action. Section 86100, subdivision (a) states that “individual lobbyists shall prepare lobbyist certifications . . . for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.”

Section 82038.5, subdivision (a)(1) defines a “lobbying firm” as a business entity that “receives or becomes entitled to receive any compensation . . . for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity.” Section 86100, subdivision (b) states that lobbying firms shall register with the Secretary of State.

Section 86114, subdivision (a) requires a lobbying firm to file a periodic report, Lobbying Firm Report (Form 625), disclosing the firm’s activity. The lobbying firm must attach to its Lobbying Firm Report, a Lobbyist Report completed for each partner, owner, officer, or employee of the lobbying firm who qualifies as a lobbyist. (Section 86114, subd. (a)(4).) Pursuant to Section 86117, subdivision (a), and Section 86118, the Lobbying Firm Report must be filed with the Secretary of State by the end of the month following each calendar quarter.²

In addition to the paper filing requirement in Section 86114, Section 84605, subdivision (d) requires that, starting on July 1, 2000, the periodic reports of a lobbyist firm must also be filed electronically with the Secretary of State if the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is \$5,000 or more during a calendar quarter. Once a lobbyist firm has the obligation to file a periodic report electronically under

² Under Regulation 18116, if the last day of the month falls on a Saturday, Sunday, or official holiday, the filing deadline is extended to the next regular business day.

Section 84605, subdivision (d), Section 84605, subdivision (g) requires all future periodic reports of the lobbyist firm to be filed electronically.

In 2005, lobbyist firms were relieved of the obligation to file the quarterly lobbyist firm reports in paper form if they file electronically. (Section 84606.) Instead, beginning with the reporting period for January 1, 2005, through March 31, 2005, lobbyist firms were only required to file reports electronically.

Liability of Third Parties

Section 83116.5 states that any person who violates, or who purposely or negligently causes another to violate, any provision of the Act shall be liable for the violation, so long as that person has filing or reporting obligations under the Act, or is compensated for services involving the planning, organizing, or directing of any activity regulated or required by the Act.

SUMMARY OF THE FACTS

Respondent L. Scott Spahnn & Associates was a lobbying firm located in Sacramento, and registered with the Secretary of State. Respondent L. Scott Spahnn & Associates had been registered as a lobbying firm since December 2002. Respondent Leslie Scott Spahnn was a registered lobbyist, and the owner of Respondent L. Scott Spahnn & Associates. Respondent Leslie Scott Spahnn had been a registered lobbyist since April 1995. Respondents had a duty under the lobbying provisions of the Act to file periodic reports disclosing their lobbying activities. Respondents, however, failed to timely file three periodic lobbyist firm reports in paper format and three lobbyist firm reports electronically during the 2004 calendar year. Respondents have not registered as a lobbyist or lobbying firm since the 2004 calendar year.

The following table reflects information regarding each report not timely filed:

Count	Lobbying Firm Report	Reporting Period	Due Date	Date Filed	Information Not Disclosed
1	2 nd Quarter (2004)	Apr. 1 to June 30, 2004	Aug. 2, 2004	Dec. 2, 2005 (paper)	\$34,574 in client fees
2	2 nd Quarter (2004)	Apr. 1 to June 30, 2004	Aug. 2, 2004	Dec. 16, 2005 (electronic)	Same as above
3	3 rd Quarter (2004)	July 1 to Sept. 30, 2004	Nov. 1, 2004	Dec. 2, 2005 (paper)	\$0 in client fees
4	3 rd Quarter (2004)	July 1 to Sept. 30, 2004	Nov. 1, 2004	Dec. 16, 2005 (electronic)	Same as above
5	4 th Quarter (2004)	Oct. 1 to Dec. 31, 2004	Jan. 31, 2005	Dec. 2, 2005 (paper)	\$0 in client fees
6	4 th Quarter (2004)	Oct. 1 to Dec. 31, 2004	Jan. 31, 2005	Dec. 16, 2005 (electronic)	Same as above
Total					\$34,574

For each of the delinquent quarterly reports, due from August 2, 2004 through January

31, 2005, the Secretary of State's Office sent at least two letters each quarter to Respondents, advising Respondents that each report was past due. The first letter was sent August 12, 2004. Every letter sent by the Secretary of State's Office was returned unclaimed.

In June 2005, the FTB attempted to audit Respondent L. Scott Spahn & Associates, but the FTB was unable to contact Respondents and could not perform the audit. The FTB attempted to contact Respondents through written correspondence and telephone. Respondents did not respond to any letters and the telephone number was disconnected. Respondents had not submitted any current contact information to the Secretary of State's Office. Thereafter, the FTB referred this case to the Enforcement Division of the Fair Political Practices Commission ("FPPC").

In October 2005, FPPC Investigator Elaine Olmos-Flores obtained Respondents' current address. A certified letter was sent to this address, instructing Respondents to file the missing lobbyist reports and provide lobbyist records. On November 7, 2005, Respondent Spahn contacted the Enforcement Division of the FPPC indicating a desire to comply with filing requirements.

On December 2, 2005, Respondents filed the reports in paper format for the second, third and fourth quarters of 2004. On December 16, 2005, Respondents filed the reports electronically for the second, third and fourth quarters of 2004.

In March 2006, this case was resubmitted to the FTB to complete the audit. In August 2006, the FTB completed the audit, and in October 2006, the FTB referred the case back to the Enforcement Division of the FPPC.

COUNT 1-2

Failure to Timely File Second Quarter 2004 Lobbying Firm Reports in Paper Format and Electronically

Respondents were required to file a second quarter 2004 lobbying firm report in paper format and electronically by August 2, 2004, for the reporting period April 1, 2004 to June 30, 2004. Respondents did not file the lobbying firm report in paper format until December 2, 2005 and the lobbying firm report electronically until December 16, 2005. During the second quarter of 2004, Respondents received \$34,574 in client fees. By failing to timely file the second quarter 2004 lobbying firm report in paper format, Respondents violated Sections 86114 and 86117, subdivision (a). By failing to timely file the second quarter 2004 lobbying firm report electronically, Respondents violated Section 84605, subdivision (d).

COUNT 3-4

Failure to Timely File Third Quarter 2004 Lobbying Firm Reports in Paper Format and Electronically

Respondents were required to file a third quarter 2004 lobbying firm report in paper format and electronically by November 1, 2004, for the reporting period July 1, 2004 to September 30, 2004. Respondents did not file the lobbying firm report in paper format until December 2, 2005 and the lobbying report electronically until December 16, 2005. During the third quarter of 2004, Respondents received \$0 in client fees. By failing to timely file the third quarter 2004 lobbying firm report in paper format, Respondents violated Sections 86114 and 86117, subdivision (a). By failing to timely file the third quarter 2004 lobbying firm report electronically, Respondents violated Section 84605, subdivision (d).

COUNT 5-6

Failure to Timely File Fourth Quarter 2004 Lobbying Firm Reports in Paper Format and Electronically

Respondents were required to file a fourth quarter 2004 lobbying firm report in paper format and electronically by January 31, 2005, for the reporting period October 1, 2004 to December 31, 2004. Respondents did not file the lobbying firm report in paper format until December 2, 2005 and the lobbying firm report electronically until December 16, 2005. During the fourth quarter of 2004, Respondents received \$0 in client fees. By failing to timely file the fourth quarter 2004 lobbying firm report in paper format, Respondents violated Sections 86114 and 86117, subdivision (a). By failing to timely file the fourth quarter 2004 lobbying firm report electronically, Respondents violated Section 84605, subdivision (d).

CONCLUSION

This matter consists of six counts, which carry a maximum administrative penalty of Five Thousand Dollars (\$5,000) per count, for a total of Thirty Thousand Dollars (\$30,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the Respondent, upon learning of the violations, voluntarily filed appropriate amendments to provide full disclosure.

The typical administrative penalty for failing to timely file a lobbying firm report in paper format has historically been in the low-middle to the high-middle range of the available penalty amount, depending on the circumstances of the violation. The typical administrative penalty for failing to timely file a lobbying firm report electronically has been in the low-middle to the high-middle range of the available penalty amount.

In this case, Respondents failed to file three quarterly lobbying firm reports in paper

format and three quarterly lobbying firm reports electronically. However, Respondent Spahnn stated that he experienced some ongoing personal medical problems that affected his ability to file the required lobbying firm reports in a timely manner. This is consistent with the fact that the third and fourth quarter reports reflected no monetary activity during those periods. Additionally, Respondents are no longer registered as a lobbying firm or a lobbyist, and have filed termination papers with the Secretary of State.

As such, regarding Counts 1 and 2, a penalty in the amount of \$1,200 per violation, for a total of \$2,400, is justified.

Due to the lack of monetary activity in the third and fourth quarters, a lower penalty amount is justified for Counts 3-6. A penalty in the amount of \$1,000 per violation, for a total of \$4,000 is justified.

Accordingly, the facts of this case justify the imposition of an administrative penalty of Six Thousand Four Hundred Dollars (\$6,400).